

NOTICE OF PROPOSED RULEMAKING

TO ALL INTERESTED PERSONS:

The California Department of Transportation (Department) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action. Following the public hearing and comment period, the proposal may be adopted substantially as set forth without further notice.

PUBLIC HEARING

The Department will hold a public hearing from 10:00 a.m. to 12:00 p.m. December 1, 2008, at 1120 N Street, Room 1450, Sacramento, California. The building is wheelchair accessible. At the hearing any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m., December 1, 2008. The Department will consider only comments received by that time. Submit comments to:

James Arbis
Office of Outdoor Advertising
California Department of Transportation
1120 N Street, MS-36
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Business and Professions Code Sections 5250 and 5415 authorize the Department to adopt the proposed regulatory actions which would implement, interpret or make specific Sections, 5205, 5216 5223, 5225, 5251, 5272, 5273, 5273.5, 5301, 5302, 5354, 5358, 5360, 5400, 5405, 5408, 5440, 5463, 5482, 5484 and 5485 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to amend Sections 2241, 2242, 2243, 2244, 2245, 2270, 2271, 2272, 2401, 2422, 2422.1, 2424, 2444, 2511, 2512 and 2513 in Title 4 of the California Code of Regulations.

Business and Professions Code Sections 5250 and 5415 authorize and require the Department to promulgate regulations to enforce the Outdoor Advertising Act (Business and Professions Code Sections 5200 et seq.) consistent with national standards. The Outdoor Advertising Act and national standards provide specific requirements and restrictions concerning the specifications of outdoor advertising displays and the conduct of outdoor advertising activities, including licensing and permitting requirements. Moreover, there is statutory authority that concerns violation and enforcement provisions related to displays, permits and licenses. The existing regulations were enacted in 1978 and later amended in 1999 to implement State statutory and Federal statutory and regulatory authority.

The proposed regulatory action will implement the Outdoor Advertising Act and national requirements concerning the placement of outdoor advertising, conduct of outdoor advertising activities, administration of permit and licensing requirements, violations and the enforcement process. Moreover, this regulatory action updates language and terminology used by the Department and the industry.

Section 2241(b) changes Office of Administrative Hearing (OAH) hearings from using certified court reporters to recording electronically, resulting in considerable savings.

Section 2241(b)(2) designates Government Code section 11508 to locate where hearings will be held.

Section 2241(b)(5) adds precedent decision provisions.

Section 2241(b)(6) makes unsuccessful applicants responsible for OAH costs.

Section 2242 (intro) provides a technical change referencing the California Outdoor Advertising Act and Business and Professions Code.

Section 2242 (a) adds "accepts" to the definition.

Section 2242(d) provides clarification of the definition for "Message Center Display."

Section 2242(i) provides a technical change by deleting repeated words "of the Department."

Section 2242(k) adds definition of "Electronic Message Display."

Section 2242(m) adds a technical change explaining the facing of an advertising Display.

Section 2242(r) provides a technical change adding advertising copy to definition.

Section 2242(y) adds a definition of "static display."

Section 2242(z) adds a definition of "tri-vision displays."

Section 2243 (intro) provides a technical change including being subject to applicable provisions of the California Outdoor Advertising Act.

Section 2243(f) adds local government approval for on-premise displays.

Section 2244 rewrites Redevelopment Area permit standards.

Section 2245 (intro) provides a technical change adding "Redevelopment."

Section 2245(b) adds information regarding extensions.

Section 2270(b)(3) adds second facing.

Section 2270(b)(6) provides technical change replacing Changeable message with message center display.

Section 2270(b)(7) adds conversion of a static display to a message center display as requiring a new permit.

Section 2271 rewrites criteria of destroyed display (required by feds).

Section 2272 conforms "abandoned display" language to new destroyed display criteria.

Section 2401(7), (8) and (9) include additional examples of activities that are not considered as commercial or industrial.

Section 2422(a)(1) includes requirements of a separate application for each side of a display.

Section 2422(a)(2) provides a technical change which includes the Department's address.

Section 2422(a)(5) adds "technical" and "incomplete application" when describing application deficiencies.

Section 2422(b)(1) provides technical change adding Sacramento.

Section 2422(b)(2)(C) provides procedures when application is incomplete, and precedence if another application is received.

Section 2422(b)(2)(E) provides meaning of "a new alignment."

Section 2422(b)(2)(F) provides meaning of "widening or extensive modification"

Section 2422(b)(3) provides procedures when application is incomplete.

Section 2422(b)(4) provides time frame for confirmation of compliance or non-compliance with law.

Section 2422.1 adds a permit fee.

Section 2424(a)(2) includes a technical change regarding the current form for permit renewal.

Section 2424(a)(2)(C) clarifies responsibility of permit holders to renew, even if a renewal application was not received.

Section 2424(a)(6)(A) clarifies the time limit is 30 days before a permit can be cancelled for nonpayment.

Section 2424(a)(9) adds information regarding permits for multi-sided displays.

Section 2444(5) adds provision canceling an Outdoor Advertising license if a licensee uses bribery or other undue influence.

Section 2511(a) provides a technical change which includes requests for review.

Section 2512(a) adds a \$300 fee for each request for landscape reclassification.

Section 2513(c)(7) changes words to read properly.

In conclusion, this regulatory action proposes to amend and adopt regulations in Title 4, Division 6 of the California Code of Regulations for consistency and to effectively serve the Department and the public.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Adoption of this regulatory action will not:

- (1) create or eliminate jobs within the state of California;
- (2) create new businesses or eliminate existing businesses within the state of California; or
- (3) affect the expansion of businesses currently doing business within the state of California.

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulatory action may affect small businesses, but will have no economic impact.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

James Arbis
Office of Outdoor Advertising
California Department of Transportation
1120 N Street, MS-36
Sacramento, CA 95814
Telephone: (916) 653-3042

Or

Kenneth Parmelee
Office of Outdoor Advertising
California Department of Transportation
1120 N Street, MS-36
Sacramento, CA 95814
Telephone: (916) 651-9327

Questions on the substance of the proposed regulatory action may be directed to James Arbis.

Please direct requests for copies of the proposed text (the "express terms") of the regulatory action, the initial statement of reasons, the modified text of the regulatory action, if any, or other information upon which the rulemaking is based to James Arbis at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting James Arbis at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to James Arbis at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting James Arbis at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Department's website at www.dot.ca.gov/oda.